

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department - Andhra Pradesh Scheduled Area Land Transfer Regulation 1959 - Khammam District - Revision Petition filed by Smt Gudapati Bala Tripura Sundari W/o.Venkateswar Rao R/o.Nacharam (V), Dammapeta (M), Khammam District against the orders of the Additional Agent to Government in C.M.A No.67/2007 dated 28.6.2008- Rejected - Orders - Issued.

SOCIAL WELFARE (LTR.2) DEPARTMENT

G.O.MS.No. 39

Dated 01.03.2014
Read the following:-

1. From Smt Gudapati Bala Tripura Sundari W/o.Venkateswar Rao R/o.Nacharam (V), Dammapeta (M), Khammam District dt.06.10.2008.
2. Govt.Memo.No.9486/LTR-2/2008, dt.02.01.2009.
3. From the Additional Agent to Government, Bhadrachalam, Khammam District Lr.No.C.M.A.67/07, dt.17.02.2009.
4. Govt.Lr.No.9486/LTR-2/2008, dt.02.09.2013

ORDER:-

In the reference first read above, Smt Gudapati Bala Tripura Sundari W/o.Venkateswar Rao R/o.Nacharam (V), Dammapeta (M), Khammam District has filed Revision Petition before the Government to set aside the Proceedings of the Additional Agent to Government, Bhadrachalam, Khammam District issued in C.M.A No.67/2007, dated 28.6.2008, wherein he has set aside the orders of the Special Deputy Collector (Tribal Welfare), Bhadrachalam in LTR case No.396/2005/DPT dated 19.10.2005, in respect of the land Acres 6.26 guntas in Sy.No.1277 of Nagupalli Village, Dammapeta Mandal, Khammam District and directed the Tahsildar, Dammapeta to take over possession of the land evicting the persons whoever in the possession and restore the same to the Tribal Petitioner under cover of panchachanam.

2. The following are the principal contents urged in the Revision Petition:-

- (i) The order of the Additional Agent to Government under revision is antedated, arbitrary, nullity, not in appreciation of the facts in accordance with law, ultra vires the provisions of L.T. Regulation 1/1959 as amended by Regulation 1/1970, excess of jurisdiction, against the principles of natural justice, against the binding precedents of the Hon'ble High Court of Judicature of A.P. and the Hon'ble Supreme Court of India.
- (ii) Without calling connected records of Special Deputy Collector (Tribal Welfare) the case was decided suo moto by the Additional Agent to Government, Bhadrachalam.
- (iii) The Additional Agent to Government, that the 4th respondent ie., Kanithi Venkappa S/o.Venkappa received the impugned order dated.19.10.2005 in L.T.R. Case No.396/2005/DPT on the file of the Special Deputy Collector (TW) on 22.11.2005 and appeal was filed on 21.01.2006 and therefore the appeal is within time is not true and correct, and in such circumstances the appeal filed by Sri Kanithi

(P.T.O.)

Venkappa S/o.Venkappa ie., 4th respondent ought to have numbered in the year 2006 and ought to have appreciated that, the appeal was filed in the year 2007 mentioning the date as 21.01.2006, and the Additional Agent to Government, Bhadrachalam, Khammam ought to have verified by calling the concerned registered consisting of the S.R. Number of the appeal and ought to have enquired the reasons for not numbering the appeal from 21.01.2006 till the year 2007.

- (iv) The Additional Agent to Government has no jurisdiction or authority to adjudicate any thing in respect of the possession of the petitioners who are claiming possession by way of succession & in pursuant to sale transaction dt.15.03.1961 long prior to the commencement of the Regulation.
- (v) The Additional Agent to Government, Bhadrachalam having found that the possession of the petitioner and her ancestral is since long prior to Regulation, ought to have dismissed the appeal.
- (vi) In view of the regularizing the sale transaction by the competent authorities under ROR Act, the Additional Agent to Government, Bhadrachalam ought to have recognized the petitioner as title holder of the subject land and ought to have dismissed the appeal.
- (vii) The Additional Agent to Government, Bhadrachalam failed to see that he has no jurisdiction to add L.R. in the appeal.
- (viii) The Additional Agent to Government, Bhadrachalam directing the Tahsildar to take over possession of the schedule land is not justified.
- (ix) The Appellate Authority passed the orders under revision with the observations on assumptions and presumptions.
- (x) The Additional Agent to Government, Bhadrachalam failed to note that the provisions of Regulations 1/59 do not any provision of appeal against the orders of Additional Agent to Government as 1st Respondent.
- (xi) That the order under revision is against the binding decisions of the Hon'ble High Court of Judicature A.P. reported in 2006(2) ALD 246 in WP.No.5320/05, ALT 2000 (Rev) page 66 &88 in Kola Mahalaxmi Vs Spl. Deputy Collector(TW) and the full bench decision of Hon'ble High Court Apex Court reported in 1995 SCC 545.

3. The Project Officer, ITDA, Bhadrachalam, Khammam District who was consulted in the matter vide reference 2nd read above has sent parawise remarks and connected case records on the Revision Petition in the reference 3rd read above. The parawise remarks are as follows:-

In reply to the Ground No.1: It is submitted that the lower court after due verification of the records passed orders and no necessity for the Additional Agent to Government (1st respondent) to issue anti dated orders. After examined the records and then after passed orders.

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In reply to the Ground No.2: It is submitted that it is not correct to say without calling for connected records from the Special Deputy Collector (2nd respondent in the Revision Petition) passed orders. The Additional Agent to Government while passing the orders called for lower court records and verified.

In reply to the Ground No.3: It is submitted that the Kanithi Venkappa (4th respondent) filed the appeal on 21.01.2006 stating that he received order dt.22.11.2005. According to that the said appeal is filed time.

In reply to the Gound 4 & 5: It is submitted that as per the pahanies filed by the Kanithi Venkappa (4th respondent) before the Additional Agent to Government, Bhadrachalam. One Kanithi Venkappa's (ST) name was shown as pattedar in col.No.11 from the years 1961-62, 1962-63, 1965-66, 1967-68, 1970-71 to 1974-75 as shown in pattedar column. Only in the year 1965-66 the name of Smt Morampudi Rukminamma has been shown in enjoyer's column ie., in 16th column. Further it is not also recorded that how she came into the enjoyers column. It is clear that land belongs to Tribal family who is the 4th respondent herein. The Revision Petitioner had not filed any documentary proof to how that her possession prior to the regulation 1/59 as amended by 1/70.

In reply to the Ground No.6: It is submitted that the Revenue Authorities while issuing pattedar pass books must verify whether the transaction has taken prior to the Land Transfer Regulation though having documents then only the pattedar pass book should be issued. But in this case the authorities have issued pass book and 13-B certificate which filed in the lower court (Special Deputy Collector), without observing rules and regulations as the schedule land is situated in the schedule area.

In reply to the Ground No.7: It is submitted that, the present Revision Petitioner filed a memo before the Additional Agent to Government, Bhadrachalam (1st respondent) and stating that Smt Rukminamma died and she is the grand daughter therefore the Additional Agent to Government, Bhadrachalam added as L.R. of Rukminamma. The Additional Agent to Government, Bhadrachalam after due enquiry passed orders on L.R. passed order.

In reply to the Ground No.8: It is submitted that the Additional Agent to Government rightly directed the Tahsildar to take possession by conducting panchanama after due enquiry with the record passed such order.

In reply to the Ground No.9 & 10: It is submitted that it is not correct to say that an appeal lies against the impugned order to the Government is not correct. The Regulation provides Revision to the Government against the orders of the Additional Agent to Government, Bhadrachalam. The Revision Petitioner filed the Revision before the Government as per the Regulation.

In reply to the Ground No.11: It is submitted that Revision Petitioner has not filed any document to prove his title. Hence the decisions furnished by the Revision Petitioner not applicable to this case.

5. In the reference 4th read above the petitioners were called for the hearing along with the written arguments and record. The case has been heard on 12.09.2013. Both the parties were present and filed written arguments.

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6. On perusal of the Appeal Petition/Written Arguments, copies of documents, records and other material papers made available in the file, it has observed that the transfer of the suit land took place in contravention of the LTR 1/59 read with 1/70. The Additional Agent to Government, Bhadrachalam, Khammam District has rightly adjudged the C.M.A No.67/2007 filed by the Tribal Petitioner Sri Kanithi Venkappa in respect of the suit land and issued orders in favour of the Tribal Petitioner. It is also seen that the Revision Petitioner in the Revision Petition (Non-Tribe) has not adduced any fresh grounds in support of his claim.

7. Therefore, Government after careful examination hereby upheld the orders of the Additional Agent to Government, Khammam District and the Revision Petition filed by Smt Gudapati Bala Tripura Sundari W/o.Venkateswar Rao in C.M.A No.67/2007, dt.28.06.2008 is hereby disposed off.

8. The Additional Agent to Government, Khammam District is requested to take necessary action in the matter accordingly and acknowledge the receipt of the case records which are returned herewith.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr. A. VIDYA SAGAR,
PRINCIPAL SECRETARY TO GOVERNMENT (TW)

To:

The Collector & Agent to Government, Khammam District.

The Additional Agent to Government & Project Officer, ITDA

Bhadrachalam, Khammam.(w.e.).

Smt Gudapathi Bala Tripura Sundari, W/o.Venkateswar Rao, R/o.Nacharam village, Dammapeta Mandal, Khammam District.

Copy to:

Sri G.Deendayal, Advocate, H.No.17-33, Sattupally, Srinivasa Talkies Road, Sathupally, Khammam District.

Sri K.Sarath, Advocate, Flat No.306, Block-A, H.No.1-7-1074, Sri Datta Sai Apartments, Opp.Saptagiri Theatre, Hyderabad-020.

Sri Kanithi Venkappa S/o.Venkappa, R/o.Mallamma Gumpu Village, Dammapeta Mandal, Khammam district.

The P.S to M (TW) for information/

The P.S to Principal Secretary to Government (TW)

SF/SC.

// FORWARDED:: BY ORDER //

SECTION OFFICER